

FILED

MAY 21 2019

Mather Juk
CLERK

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
WESTERN DIVISION

CR 5:19-CR-50072

UNITED STATES OF AMERICA,

Plaintiff,

vs.

MARCIN STANISLAW GARBACZ,

Defendant.

REDACTED INDICTMENT

WIRE FRAUD
(18 U.S.C. § 1343)

MONEY LAUNDERING
(18 U.S.C. § 1956)

TRANSPORTATION OF STOLEN
MONEY
(18 U.S.C. § 2314)

The Grand Jury charges:

WIRE FRAUD

(18 U.S.C. § 1343)

Overview of the Scheme and Artifice to Defraud

1. At all times relevant to this Indictment, the defendant, Marcin Stanislaw Garbacz (“Garbacz”), was a resident of South Dakota and employed as a pastor assigned to the Diocese of Rapid City (“DRC”).

2. From 2004 through 2012, Garbacz was assigned to various parishes overseen by the DRC, including St. Joseph in Faith, South Dakota, from July 2008 through July 2012. On July 1, 2012, Garbacz was removed from his assignment at St. Joseph in part because of his financial mismanagement of the parish. As part of his duties as pastor, Garbacz was responsible for maintaining

St. Joseph's accounting records and sending monthly financial reconciliations to the DRC. However, he consistently failed to do so. An audit conducted by the DRC found that St. Joseph's accounting records were in poor condition.

3. Following his removal from St. Joseph in 2012, Garbacz was reassigned to various parishes in Rapid City. During his residence in Rapid City, Garbacz had access to cash collections at several parishes, including: Blessed Sacrament; Cathedral of Our Lady of Perpetual Help; and St. Therese the Little Flower Catholic Church.

4. As part of his compensation for his services in Rapid City for the DRC, Garbacz was paid approximately \$22,000 to \$24,000 per year. These payments were made to Garbacz utilizing direct deposit into his bank account or by check.

5. Beginning in or about July 2012, and continuing until in or about April, 2018, Garbacz devised and intended to devise a scheme and artifice to defraud the Diocese of Rapid City and enrich himself. As part of the scheme and artifice to defraud, Garbacz would steal and unlawfully divert cash donations made by parishioners at the DRC parishes in Rapid City and deposit them in his own personal bank account at Black Hills Federal Credit Union.

Manner and Means of the Scheme to Defraud

Theft of Funds

6. The DRC separates contributions into two categories. The first category is referred to as envelope donations, which includes checks or recurring

automatic transfers from parishioners. The second category is referred to as plate collections, which includes cash donations made by parishioners, often times during worship services. Each of the DRC's parishes in Rapid City typically held several Masses each week over Saturdays and Sundays. Throughout Garbacz's tenure with DRC, during each Mass, there were approximately 4-8 ushers who would pass the cash collection baskets through the pews. The ushers would then place the baskets containing cash collections near the front altar until Mass was over. Following the service, the ushers would take the cash and place them in bags, but would not record the total amount of cash donations. The cash was kept in a location which could be accessed by several people, including Garbacz. The following Monday or Tuesday, a bookkeeper and parish worker would count the cash donations, record these amounts in the parish's accounting records, and then deposit the cash into the parish's bank account.

7. Beginning in July 2012, Garbacz began diverting funds from the weekly cash donations for his own personal use. Garbacz would steal and unlawfully divert the cash donations before they were counted and deposited in order to conceal his scheme. In furtherance of his scheme and artifice to defraud, Garbacz would enter the parish at night or in the early morning hours before other parish workers, pastors, or parishioners were present or awake. Garbacz would steal and unlawfully take some cash from the cash donations. Because the amounts were not recorded initially, Garbacz was able to steal the money

undetected. After stealing the cash donations, Garbacz would take the cash and deposit it into his personal checking account at Black Hills Federal Credit Union.

8. Between 2012 and 2018, several parish workers were suspicious of unusually low cash collections at the DRC's St. Therese parish, but were unable to identify a particular reason. In March 2018, the parish pastor and bookkeeper assigned to the DRC's St. Therese's parish instituted the use of tamper proof cash collection bags and the parish had a video surveillance system installed to try and identify if someone was stealing the cash donations. As a pastor, Garbacz knew the access code to the vault room where the cash collections were kept at St. Therese.

9. After the use of tamper proof bags began and after the installation of the surveillance system, Garbacz, in furtherance of the scheme and artifice to defraud, continued to steal and unlawfully divert cash donations. In order to accomplish this, Garbacz used his own identical tamper proof bags that he purchased. Garbacz would then remove the original tamper proof bags from the vault, open them and take a portion of the cash. Once he had removed some of the cash, he would place the remaining cash in his own tamper proof bags and place the new bags in the vault room in order to make it appear that no cash had been stolen. Garbacz would then forge the writing on the new tamper proof bags to make it appear similar to the writing on the original tamper proof bags.

10. After parish workers began using tamper proof bags, they realized the numbers on the bags they reviewed on Monday morning prior to making the

deposit were different than the numbers on original bags placed in the vault on Sunday. This fact made the parish workers suspicious that an embezzlement of the cash donations was continuing, but when they reviewed the surveillance footage, they learned it had been turned off or was having technical problems when the suspected thefts of cash occurred and did not record anything.

11. In April 2018, in response to the malfunctioning surveillance system, the bookkeeper at St. Therese's parish installed two additional video surveillance cameras at St. Therese. Garbacz was unaware these new surveillance cameras had been installed. On Monday, April 23, 2018, at approximately 2:30 a.m. – 3:00 a.m., the surveillance cameras recorded Garbacz removing cash donations from St. Therese and then returning altered bags.

12. On April 23, 2018, Garbacz was confronted by the Bishop for the DRC about the thefts. Garbacz initially denied stealing money, but when confronted with the video evidence, Garbacz admitted to diverting cash donations. As a result, Garbacz was sent to a treatment facility operated by the Catholic Church for parish workers who are facing moral issues.

13. In total, between July 2012 and April 2018, Garbacz made cash deposits into his personal bank account in excess of \$150,000.00. After being confronted by the Bishop on April 23, 2018, the cash deposits into Garbacz's Black Hills Federal Credit Union Account substantially decreased.

14. Between July 2012 and April 2018, several of the DRC's pastors observed Garbacz in possession of several custom made chalices and other artwork believed to be worth tens of thousands of dollars.

15. Garbacz made numerous advances on his credit card for several thousand dollars at a time that appeared to be made in order to purchase statues or chalices. On individual advances, Garbacz wrote that the funds were for a "statue" or "chalice." After making these advances, Garbacz appeared to be paying off the Chase credit card using the stolen cash deposits from the DRC. For instance, on August 22, 2016, Garbacz deposited \$2,200.00 in cash believed to be stolen from the DRC. On August 23, 2016, Garbacz made a \$2,200.00 payment on his Chase credit card.

16. In April 2018, the DRC removed Garbacz from his assignment with the Rapid City Parishes. A review of the DRC's cash collections following Garbacz's departure showed a substantial increase. During the DRC's first quarter of 2018 (July 1, 2018 - October 31, 2018), which was the full quarter after Garbacz's departure, the DRC reported that cash collections increased dramatically compared to the same quarter in 2017.

17. On July 25, 2018, Garbacz closed his account at Black Hills Federal Credit Union. The Credit Union gave Garbacz a cashier's check in the amount of \$15,379.60.

18. On July 20, 2018, Garbacz opened an account at U.S. Bank in St. Louis, Missouri. On July 30, 2018, Garbacz deposited the \$15,379.60 cashier's

check into his U.S. Bank account. Additionally, between July 2018 and October 2018 Garbacz made seven cash deposits into his U.S. Bank account, totalling \$39,000. During this period of time, Garbacz had no known source of legitimate cash earnings. On January 2, 2019, U.S. Bank force-closed Garbacz's account and distributed the remaining balance of \$50,007.22 in the form of a cashier's check.

19. On January 8, 2019, Garbacz opened an account at JP Morgan Chase Bank in Kent, Washington. On January 8, 2019, Garbacz deposited the \$50,007.22 cashier's check into his Chase Bank account.

20. On Monday, May 6, 2019, a federal agent spoke with Garbacz over the phone and advised him of the investigation.

21. In order to conceal the proceeds of his unlawful activity, between May 8, 2019, and May 10, 2019, just two days after being contacted by a federal agent and made aware of the investigation, Garbacz withdrew \$50,500.00 in cash from his checking and savings accounts at JP Morgan Chase Bank, leaving only a few hundred dollars in each.

22. On May 10, 2019, at 1:05 a.m., Garbacz scheduled a one way flight leaving from Seattle-Tacoma International Airport to a final destination of Poland. At the airport, Garbacz was found to be in possession of \$10,556 in cash.

WIRE FRAUD

(18 U.S.C. § 1343)

23. All of the allegations set forth in paragraphs 1 through 22 inclusive are hereby realleged and incorporated by reference as though fully set forth herein.

24. On or about the following dates listed below, in the District of South Dakota and elsewhere, the defendant, Marcin Stanislaw Garbacz, devised the above-described scheme and artifice to defraud and for obtaining money and property by means of false and fraudulent pretenses, representations, and promises, and for the purposes of executing such scheme and artifice and attempting to do so, unlawfully, willfully, and knowingly did cause to be transmitted by means of wire communications in interstate commerce writings, signs, signals, and sounds, to wit, the defendant, Marcin Stanislaw Garbacz, did fraudulently steal cash donations from the Diocese of Rapid City and deposit the cash into his personal account at Black Hills Federal Credit Union ("BHFCU"), which cash constituted funds rightly belonging to the Diocese of Rapid City in the approximate amounts below:

COUNT	DATE	AMOUNT	ACCOUNT
1	07/03/2012	\$246.12	BHFCU
2	08/22/2012	\$100.00	BHFCU
3	12/31/2012	\$1,050.00	BHFCU

COUNT	DATE	AMOUNT	ACCOUNT
4	03/11/2013	\$1,100.00	BHFCU
5	04/11/2013	\$2,000.00	BHFCU
6	05/06/2013	\$1,860.00	BHFCU
7	06/03/2013	\$3,122.13	BHFCU
8	07/29/2013	\$2,000.00	BHFCU
9	08/27/2013	\$1,000.00	BHFCU
10	09/20/2013	\$1,450.00	BHFCU
11	10/22/2013	\$1,300.00	BHFCU
12	11/27/2013	\$2,700.00	BHFCU
13	01/17/2014	\$2,400.00	BHFCU
14	02/24/2014	\$1,800.00	BHFCU
15	03/07/2014	\$1,050.00	BHFCU

COUNT	DATE	AMOUNT	ACCOUNT
16	04/21/2014	\$3,000.00	BHFCU
17	05/14/2014	\$2,600.00	BHFCU
18	06/27/2014	\$1,200.00	BHFCU
19	07/22/2014	\$1,500.00	BHFCU
20	08/28/2014	\$1,560.00	BHFCU
21	09/09/2014	\$1,360.00	BHFCU
22	10/30/2014	\$1,500.00	BHFCU
23	12/29/2014	\$2,500.00	BHFCU
24	02/13/2015	\$1,350.00	BHFCU
25	03/02/2015	\$2,065.00	BHFCU
26	05/22/2015	\$2,400.00	BHFCU
27	06/22/2015	\$2,395.00	BHFCU

COUNT	DATE	AMOUNT	ACCOUNT
28	07/22/2015	\$3,375.00	BHFCU
29	08/17/2015	\$2,650.00	BHFCU
30	09/10/2015	\$1,138.00	BHFCU
31	10/22/2015	\$1,462.00	BHFCU
32	11/12/2015	\$3,226.00	BHFCU
33	12/07/2015	\$1,990.00	BHFCU
34	01/06/2016	\$1,760.00	BHFCU
35	02/02/2016	\$2,023.00	BHFCU
36	03/02/2016	\$1,400.00	BHFCU
37	05/02/2016	\$3,285.00	BHFCU
38	06/25/2016	\$3,040.00	BHFCU
39	06/27/2016	\$1,730.18	Wire from BHFCU to Chase Credit Card

COUNT	DATE	AMOUNT	ACCOUNT
40	06/28/2016	\$1,255.00	BHFCU
41	06/29/2016	\$1,255.00	Wire from BHFCU to Chase Credit Card
42	07/18/2016	\$2,957.00	BHFCU
43	08/22/2016	\$2,200.00	BHFCU
44	08/23/2016	\$2,200.00	Wire from BHFCU to Chase Credit Card
45	09/12/2016	\$1,392.00	BHFCU
46	10/13/2016	\$1,790.00	BHFCU
47	03/20/2017	\$1,540.00	BHFCU
48	06/12/2017	\$3,416.00	BHFCU
49	09/25/2017	\$950.00	BHFCU
50	11/22/2017	\$523.00	BHFCU

all in violation of 18 U.S.C. § 1343.

MONEY LAUNDERING

(18 U.S.C. § 1956)

25. The allegations in paragraphs 1 through 22 inclusive are hereby realleged and incorporated by reference as though fully set forth herein.

26. On or about the dates listed below, in the District of South Dakota and elsewhere, the defendant, Marcin Stanislaw Garbacz, did knowingly conduct and attempt to conduct the following financial transactions affecting interstate and foreign commerce, to wit, cash withdrawals from accounts controlled by the defendant, Marcin Stanislaw Garbacz, which involved the proceeds of a specified unlawful activity, that is, wire fraud, knowing that the transactions were designed in whole and in part to conceal and disguise the nature, source, ownership, and control of the proceeds of said specified unlawful activity and that while conducting and attempting to conduct such financial transactions knew that the property involved in the financial transactions represented the proceeds of some form of unlawful activity:

COUNT	DATE	AMOUNT	MONEY LAUNDERING TRANSACTION
51	05/08/2019	\$8,500.00	Cash withdrawal from Garbacz's JP Morgan Chase savings account
52	05/08/2019	\$1,000.00	Cash withdrawal from Garbacz's JP Morgan Chase savings account via an ATM

COUNT	DATE	AMOUNT	MONEY LAUNDERING TRANSACTION
53	05/09/2019	\$9,400.00	Cash withdrawal from Garbacz's JP Morgan Chase savings account
54	05/09/2019	\$10,000.00	Cash withdrawal from Garbacz's JP Morgan Chase savings account
55	05/09/2019	\$10,000.00	Cash withdrawal from Garbacz's JP Morgan Chase savings account
56	05/09/2019	\$1,000.00	Cash withdrawal from Garbacz's JP Morgan savings account via an ATM
57	05/09/2019	\$4,100.00	Cash withdrawal from Garbacz's JP Morgan Chase checking account
58	05/10/2019	\$5,500.00	Cash withdrawal from Garbacz's JP Morgan Chase checking account
59	05/10/2019	\$1,100.00	Cash withdrawal from Garbacz's JP Morgan Chase checking account via an ATM

COUNT 60

On or about between July 25, 2018, and July 30, 2018, in the District of South Dakota, the defendant, Marcin Stanislaw Garbacz, did knowingly transport in interstate commerce from South Dakota to Missouri more than \$5,000 in United States currency, knowing the same to have been stolen, all in violation of 18 U.S.C. § 2314.

FORFEITURE ALLEGATION AS TO COUNTS 1 THROUGH 59

1. The allegations contained in Counts 1 through 59 of this Indictment are hereby realleged and incorporated by reference for the purpose of alleging forfeitures pursuant to Title 18, United States Code, Section 981(a)(1)(C) and 982(a)(1) and Title 28, United States Code, Section 2461(c).

2. Upon conviction of the offense[s] in violation of Title 18, United States Code, Section 1343 and Section 1956, set forth in Counts 1 through 59 of this Indictment, the defendant, Marcin Stanislaw Garbacz, shall forfeit to the United States of America, pursuant to Title 18, United States Code, Section 981(a)(1)(C) and 982(a)(1) and Title 28, United States Code, Section 2461(c), any property, real or personal, which constitutes or is derived from proceeds traceable to the offense(s). The property to be forfeited includes, but is not limited to, the following: \$10,556 U.S. Currency and religious chalices.

3. If any of the property, as a result of any act or omission of the defendant:

a. cannot be located upon the exercise of due diligence;

- b. has been transferred or sold to, or deposited with, a third party;
- c. has been placed beyond the jurisdiction of the court;
- d. has been substantially diminished in value; or
- e. has been commingled with other property which cannot be divided without difficulty, the United States of America shall be entitled to forfeiture of substitute property pursuant to Title 21, United States Code, Section 853(p), as incorporated by Title 28, United States Code, Section 2461(c).

TRUE BILL:

Name Redacted

Foreperson

RONALD A. PARSONS, JR.
UNITED STATES ATTORNEY

By: Nathaniel N. Nau